**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**

## HON'BLE Mr. JUSTICE R. SUBHASH REDDY

**Writ Petition No.4611 of 2006**

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**Dated: March 16, 2006**

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**Between:**

P. Prakash, S/o. P. Anjaiah,

aged about 28 years,

R/o.7-25, S.V.R. Nagar, Medchel,

R.R. District – 501 401.

… Petitioner

And

The Commissioner of Tribal Welfare,

Government of Andhra Pradesh, D.S.S. Bhavan,

Masab Tank, Hyderabad – 28, and another.

… Respondents

**Order:**

In this Writ Petition, the petitioner has questioned the order dated 17-02-2006 passed in proceedings Rc.No.1471/1/2005/TRI/VC-6, by the first respondent, the Commissioner of Tribal Welfare, addressed to the Administrative Officer, Nuclear Fuel Complex, Department of Atomic Energy, Hyderabad.

2. The petitioner, who has been selected as Stipendiary Trainee – Category II (Fitter) in the second respondent-Department was directed to undergo training on a monthly stipend of Rs.4,000/- for the first year and Rs.5,000/- for the second year. The petitioner claims that he belongs to 'Lingadhari Koya' community, which is a notified Scheduled Tribe and he was considered and selected in a vacancy reserved for S.T. After his selection, the employer, i.e. Nuclear Fuel Complex, has referred his case to the Commissioner of Tribal Welfare for verification of his caste certificate. On such verification, the Commissioner of Tribal welfare, by conducting an *ex parte* enquiry, issued the impugned proceedings by recording a finding that the petitioner does not belong to 'Lingadhari Koya' community, a notified Scheduled Tribe.

3. Heard the learned counsel for the petitioner and the learned Government Pleader appearing on behalf of the respondents.

4. It is the case of the petitioner that in view of the provisions under the A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 ('the Act' for brevity) and the rules made thereunder, the Commissioner of Tribal Welfare is not competent to pass the impugned order declaring that the petitioner does not belong to 'Lingadhari Koya' community.

5. Learned counsel for the petitioner contends that in view of
Rule 9 (10) of the Rules, when there is a reference by the employer, the Commissioner shall refer the case to the concerned Collector for cancellation of the certificate as per the procedure laid down under Section 5 of the Act.

6. On instructions, learned Government Pleader appearing for the respondents submits that the impugned proceedings can be taken as a reference under Rule 9(10) of the Rules.

7. However, it is to be noticed that the petitioner was already given caste certificate certifying that he belongs to 'Lingadhari Koya' community, which is a notified Scheduled Tribe. On reference by the employer, if it is found that he does not belong to the community, which he claims to belong, in view of the provision under Rule 9 (10) of the Rules, the Commissioner can only refer such a case to the concerned District Collector under Section 5 of the Act for cancellation of the caste certificate. Without making such reference as contemplated under the rule referred above, it is not open for the first respondent-Commissioner to declare in the impugned proceedings that the petitioner does not belong to 'Lingadhari Koya' community, which is a notified Scheduled Tribe. The impugned order dated 17-02-2006 is without jurisdiction and runs contrary to the provisions aforementioned. On this short ground alone, the impugned order is liable to be set aside.

8. In the result, the Writ Petition is allowed. The impugned order dated 17-02-2006 is set aside. However, it is made clear that this order will not prevent the respondents in making reference as contemplated under the Rules.

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**JUSTICE R. SUBHASH REDDY**

March 16, 2006

**N.B.** **Furnish C.C. by 18-03-06**

**B/o**

**MRR**